

Notice of NON KEY Executive Decision containing exempt information

This Executive Decision Report is part exempt and Appendix 1 is not available for public inspection as it contains or relates to exempt information within the meaning of paragraph 3 of Schedule 12A to the Local Government Act 1972. It is exempt because it refers to financial information/valuation and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Subject Heading:	90 Bader Way, Rainham, RM13 7HT. Authorisation to extend the lease term in accordance with statutory provisions and amend the property description.
Cabinet Member:	Cllr Joshua Chapman Cabinet Member for Housing
SLT Lead:	Patrick Odling-Smee Director of Housing
Report Author and contact details:	Sharon Boyce– Home Ownership and leasehold Officer 01708 433015 sharon.boyce@havering.gov.uk
Policy context:	Home Ownership
Financial summary:	The leaseholder will pay a premium £3100.00 and the other associated costs in connection with extending the lease term.

Non Key Executive Decision – Part Exempt Report

Relevant OSC:	Towns and Communities OSC
Is it an urgent decision?	No
Is this decision exempt from being called-in?	Yes, this is a non-key decision by a member of staff.

The subject matter of this report deals with the following Council Objectives

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

Background:

The property is a 2 bedroomed first floor purpose built maisonette. The property benefits from a private rear garden.

The property was originally sold under the Right to Buy on a long lease in 11 July 1988. The lease was originally granted for 125 years but due to the number of sales which have taken place within the block there is currently 91 years remaining on the lease.

The right provided by the Leasehold Reform Housing and Urban Development Act 1993 (as amended) (hereinafter referred to as “1993 Act”) is for the grant of a new lease for a term of 90 years, plus the present unexpired term, all at a peppercorn rent (that is, rent free).

The legislative requirements for the terms on which the new lease is to be granted:

- To be at a peppercorn rent (i.e. no rent) for the whole of the term (the 90 years plus the present unexpired term);
- To be on the same terms as the existing lease, subject to minor modifications and certain statutory exclusions and additions:
- Modifications – to take account of any alterations to the flat, or the building, since the grant of the existing lease (e.g. reference to gas lighting or coal stores), or to remedy a defect in the lease.
- Exclusions – since the 1993 Act provides a right to perpetual renewal of the lease, any existing clauses relating to renewal pre-emptions or early termination are to be excluded.
- Additions – a requirement not to grant a sub-lease of sufficient length so as to confer on the sub-lessee a right to a new lease under the Act.
- The landlord’s redevelopment right – the new lease must also contain a clause giving the landlord the right to repossession of the flat for the purposes of redevelopment.

Valuation Commentary:

To obtain a valuation of the premium which is attainable following the Statutory route and is in accordance with Schedule 13 of the Leasehold Reform Act 1993.

The Landlord is entitled to compensation for the loss in the value of the present and reversionary interest, together with an equal share of any enhancement to the value of the flat upon extension of the lease, if appropriate (called marriage value). Marriage value is only attributable when leases have an unexpired term of less than 80 years and in this case therefore has not been applied as part of the valuation.

- The leaseholder has served a notice dated 19th April 2021 in which they have stated that they are prepared to pay a premium of £2,815.00 for the extension to the Lease.

Non Key Executive Decision – Part Exempt Report

- The Council's Surveyor has valued the premium and the Council's counter notice stipulated a figure of £3,225.00.
- The Council and leaseholder have now reached an agreement on a premium figure of £3,100.00.

The leaseholder will be responsible for the Council's reasonable Legal and Surveyor's fees.

In addition, the parties have noted that the lease plan and property description does not accurately reflect the demise. The leaseholder has sole use of a staircase which has been omitted from Seventh Schedule and plan. Therefore a new lease plan with the inclusion of the staircase has been prepared. The parties have agreed to substitute the old lease plan with the revised plan and amend the property description.

AUTHORITY UNDER WHICH DECISION IS MADE

3.8.2

(dd) To carry out the following functions:

(i) To undertake management responsibility for the Council's freehold interest where property has been disposed of on a leasehold basis under the right to buy legislation. This includes:

- enforcing covenants
- carrying out repairs
- recharging liabilities
- consulting with and involving leaseholders and their management organisations as necessary.

(ii) To manage the Council's housing stock and authorise action to obtain possession of council housing accommodation and recover rent arrears, including the service of all necessary notices and action (including applying for injunctions) to enforce or vary the Council's tenancy agreement

STATEMENT OF THE REASONS FOR THE DECISION

The leaseholder has a statutory entitlement to extend the lease pursuant to the provisions of the Leasehold Reform Housing and Urban Development Act 1993.

OTHER OPTIONS CONSIDERED AND REJECTED

None as statutory requirements apply.

Non Key Executive Decision – Part Exempt Report

PRE-DECISION CONSULTATION

The following have been consulted over the proposed transfers & easements -
Legal Services and Property Services.

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Sharon Boyce

Designation: Home Ownership and Leasehold Officer

Signature:



Date: 17/11/2021

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

The leaseholder is entitled to an extension of the lease for a period of 90 years to the unexpired term of the lease peppercorn rent pursuant to the Leasehold Reform Housing and Urban Development Act 1993. The provisions and requirements and timetable are set out in the 1993 Act.

Failure to comply with the statutory provisions and timescales can mean the leaseholder could commence action against the Council in the First Tier Tribunal (Lands Chamber) under the 1993 Act and seek appropriate redress. The Council would in addition be liable for all associated costs in this regard as well.

Furthermore, the parties have agreed to correct the description of the property and substitute the existing lease plan to include the staircase. Should the parties fail to rectify the omission, the staircase will not form part of the demise and will not accurately reflect the layout of the property.

FINANCIAL IMPLICATIONS AND RISKS

The figure of £3,100.00 has been agreed with and is payable by the Leaseholder, in addition to any other associated costs in connection with extending the lease term.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

Non Key Executive Decision – Part Exempt Report

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants.

BACKGROUND PAPERS

None

APPENDICIES

**Appendix A
Exempt**

Valuation report for 90 Bader Way, Rainham RM13 7HT.

Non Key Executive Decision – Part Exempt Report

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker



Signed

Name: Patrick Odling-Smee

Cabinet Portfolio held:

CMT Member title:

Head of Service title:

Other manager title:

Date: 17/11/21

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____